

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SHANNON K.,	)	
	)	CASE NO. C19-6246-MAT
Plaintiff,	)	
	)	
v.	)	
	)	ORDER RE: SOCIAL SECURITY
COMMISSIONER OF SOCIAL	)	DISABILITY APPEAL
SECURITY,	)	
	)	
Defendant.	)	
_____	)	

In this action, Plaintiff seeks judicial review of the Commissioner's final decision denying her applications for disability benefits. Dkt. 6. One of Plaintiff's assignments of error relates to the application of the Appointments Clause of the United States Constitution. Dkt. 20 at 15.

On November 9, 2020, after the parties' briefing on this matter was complete, the United States Supreme Court granted certiorari on the question of whether a claimant seeking disability benefits under the Social Security Act forfeits a challenge to the appointment of an administrative law judge under the Appointments Clause of the United States Constitution by failing to raise that issue during the administrative proceedings. *See Carr v. Saul*, 961 F.3d 1267 (10th Cir. 2020), *cert. granted*, 2020 WL 6551771 (U.S. Nov. 9, 2020) (No. 19-1442);

01 *Davis v. Saul*, 963 F.3d 790, 791 (8th Cir. June 26, 2020), *cert. granted*, 2020 WL 6551772  
02 (U.S. Nov. 9, 2020) (No. 20-105).

03 The Court requested that the parties submit supplemental briefing indicating whether  
04 they would prefer to proceed with this action or stay the matter until the Supreme Court has  
05 resolved the current circuit split by answering the question presented. Dkt. 27. The  
06 Commissioner indicated that he preferred a stay, and Plaintiff requested that the Court  
07 proceed. Dkt. 28, 29.

08 The Court will stay this matter until the U.S. Supreme Court has ruled on the  
09 consolidated cases of *Carr* and *Davis*, or until this Court orders otherwise. Although Plaintiff  
10 urges the Court to resolve the other issues presented in this case (Dkt. 29 at 1-2), the Court is  
11 not inclined to find reversible error in the Commissioner's decision at this point and thus finds  
12 that awaiting the Supreme Court's resolution of the constitutional issue would more  
13 efficiently resolve this matter.

14 Accordingly, this matter is STAYED. Within 14 days of the Supreme Court's ruling,  
15 Plaintiff shall file a supplemental brief addressing her position on the Appointments Clause  
16 issue. Within 14 days after the filing of Plaintiff's supplemental brief, the Commissioner  
17 shall file a supplemental brief responding to Plaintiff's brief and setting forth his position on  
18 the Appointments Clause issue.

19 DATED this 11th day of January, 2021.

20 

21 Mary Alice Theiler  
22 United States Magistrate Judge